IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

TUESDAY, THE 20TH MARCH 2007 / 29TH PHALGUNA 1928

WP(C).No. 34245 of 2006(B)

PETITIONERS:

1. UNNIKRISHNAN.K., S/O.CHATHU,
   PUTHAN VEETTIL, ERUVASSY P.O.,
   KANNUR DISTRICT.

2. MADHUSOODANAN KOTTILA, S/O.CHATHUR,
   PAYYAVOOR, KANNUR DISTRIT.

3. SURESH KOTTILA, S/O.CHATHU,
   KOTTILA HOUSE, ERUVASSY P.O., CHEMPERI (VIA),
   KANNUR DISTRICT.

4. BABU.P., S/O.KRISHNAN,
   PUTHANPURAYIL, PAYYAVOOR, KANNUR DISTRICT.

BY ADV. SRI.M.SASINDRAN

RESPONDENTS:

1. THE SECRETARY,
   PAYYAVOOR GRAMA PANCHAYAT,
   KANNUR DISTRICT.

2. THE DIRECTOR OF PANCHAYATS,
   LOCAL SELF GOVERNMENT DEPARTMENT,
   THIRUVANANTHAPURAM.

3. STATE OF KERALA, REPRESENTED BY THE
   SECRETARY, LOCAL SELF GOVERNMENT DEPARTMENT,
   SECRETARIAT, THIRUVANANTHAPURAM.

R2 & R3 BY ADV. SRMT. T.B. RAMANI, GOVT. PLEADER.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 20/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

PIUS C. KURIAKOSE, J.

W.P.(C) No. 34245 OF 2006

Dated this the 20th day of March, 2007

JUDGMENT

The grievance of the petitioner is that the Panchayat is adopting double standards in the matter of refunding the excess amounts deposited as security deposit at the time when the room in question was given to him on lease. Ext.P2 will show that certain other tenants to whom the Panchayat had leased out shop rooms in the same shopping complex the Panchayat has made refund, considering the applications submitted by those tenants. But when the petitioner filed application for refund pointing out that the Panchayat had given refund to others the Panchayat issued Ext.P7. Ext.P7 notice will show that the relevant bylaw has been amended on the basis of the order dt.7.8.06 of the Panchayat Director and therefore the Panchayat is justified in retaining the security deposit for 20 months itself.

2. Though notice was served on the Panchayat, the Panchayat has not entered appearance. Mr.M.Sasindran, counsel for the petitioner submits that the amendment of the bylaw came into effect only on 17.8.06. It is true that the application submitted by the petitioner was only on 26.8.06. But the Panchayat a public authority is not justified in treating similarly circumstanced persons differently.

Under these circumstances, I allow the Writ Petition and direct the Panchayat to refund to the petitioner the security deposit made by him at the time of commencement of the lease. Refund as directed above will be made within one month of receiving copy of this judgment. If payment is not made within the time limit, the amount will carry interest at the rate of 9% per annum.

PIUS C. KURIAKOSE, JUDGE

btt